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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,616	02/19/2004	Gerardus J. Brouwer	8-494-21	3166
7590 BERESKIN & PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H3Y2 CANADA			EXAMINER NOVOSAD, CHRISTOPHER J	
			ART UNIT 3641	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/780,616

Applicant(s)

BROUWER ET AL.

Examiner

Christopher J. Novosad

Art Unit

3641

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 3, 4 and 7-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5, 6, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Hummer.

Regarding claim 1, Hummer discloses a method of handling sod 12 having grass blades projecting upwardly therefrom, comprising providing a clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) having first and second opposing clamp surfaces 42 at least one 42 of which is moveable to press against the other clamp surface 42, gripping at least an upper portion of the sod 12 between the opposing clamp surfaces 42 and moving the clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) with the sod 12 suspended from the clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d).

As to claim 2, the clamp (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) clamps at least some of the grass blades by contacting the grass blades with the clamp surfaces 42 and pressing such grass blades between the clamp surfaces 42.

With respect to claim 5, at least two (note Fig. 3) clamps (rod 42 from actuator 40a attached to member 50e and rod 42 from actuator 40b attached to member 50d) being a first

clamp; rod 42 from actuator 40a attached to member 50c and rod 42 from actuator 40b attached to member 50b being the second clamp) are used.

With regard to claims 6 and 25, Hummer (Figs. 1 and 2, col. 4, lines 32-40) discloses the steps of lowering the clamps (lowering the opposing actuator rods 42, as noted above, by means of frame 20) onto said sod with the clamps open (actuator rods 42 in retracted position), closing said clamps (actuating the rods 42 into their extended positions) to grip said sod, lifting said clamps to raise said sod (12), and then moving said clamps to move said sod (12).

Regarding claim 26, Hummer shows a method of handling sod 12 having grass blades projecting upwardly therefrom, comprising gripping the grass blades by clamp surfaces 42 and suspending the sod 12 by the grass blades from the clamp surfaces 42, and then moving the sod 12 (note Figs. 1 and 2) with the sod 12 suspended by the grass blades.

Response to Arguments

Applicants' arguments have been fully considered but they are not persuasive. The clamp surfaces are considered to be met by the structure 42, even if the clamping were indirect. It is considered that sod necessarily would include individual grass blades that would be clamped.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached at 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher J. Novosad/
Primary Examiner, Art Unit 3641

September 17, 2007